

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-052328

04/12/2011

COMMISSIONER JOHN R. DOODY

CLERK OF THE COURT  
T. Ross  
Deputy

DELICIOUS DELIVERIES PHOENIX INC

THOMAS S MORING

v.

MOBILE WAITERS ARIZONA L L C

MICHAEL A AMBRI

CHASE BANK  
P O BOX 183164  
COLUMBUS OH 43218  
CRAIGHTON T BOATES

HEARING

Courtroom 105 – NE

11:00 a.m. This is the time set for a hearing on Objection to Garnishment. Counsel Thomas Moring is present on behalf of the Plaintiff. Counsel Craighton Boates is present on behalf of the Defendant.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Brette Tamid is sworn and testifies.

Plaintiff's exhibits 1 and 2 are marked for identification.

Plaintiff's exhibit 3 is marked for identification.

Bruce Cislini is sworn and testifies.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-052328

04/12/2011

Discussion is held.

Plaintiff's exhibits 1 through 3 are received in evidence.

IT IS ORDERED taking this matter under advisement.

12:04 p.m. Matter concludes.

LATER:

On June 30, 2011, Plaintiff filed a complaint damages and punitive damages for tortuous interference with contractual relations against Defendant Mobile Waiters Arizona, LLC ("MWA") and several unnamed fictitious individual and entity defendants. Plaintiff is in the mobile restaurant or catering business. Plaintiff alleged that MWA stole its proprietary business formula and processes and used them for its own profit. Indeed, Plaintiff alleged that MWA affirmatively approached Plaintiff's customers and induced them to stop doing business with Plaintiff and to start doing business with MWA. Plaintiff's complaint sought only damages – no equitable relief was requested.

There was no hearing on the merits in the underlying claim. MWA was served and defaulted and on September 21, 2011 the court entered a default judgment against MWA for \$503,865.49. To the court's knowledge, no other defendant was identified or served other than MWA.

Plaintiff served writs of garnishment for money or property on three entities: The Meal Man, LLC, Mobile Waiters Phoenix, LLC, and AZMEALS.COM, LLC (hereinafter "garnishees"). All three filed and served answers which denied having any money or property belonging to the defaulted judgment debtor MWA. Plaintiff filed an Objection to each of the answers and set a hearing to "test" the plaintiff's objection. That hearing was held on April 12, 2011. Plaintiff introduced three exhibits into evidence and also took testimony from two witnesses, Brette Tamid (a principal or officer in the garnishees) and Mr. Morgan Cislini, a principal and officer of the Plaintiff.

By the close of the case it was clear that the Plaintiff was focused on the internet domain name (address) "AZMEALS.COM". Except for the domain name, there was no evidence that any other money or property allegedly belonging to MWA is currently in the possession or control of any of the garnishees. Focusing on the domain, Ms. Tamid testified that she is currently using "AZMEALS.COM" (hereinafter "the subject domain") in her current businesses

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-052328

04/12/2011

- the three garnishees: Mobile Waiters Phoenix, LLC, The Meal Man, LLC, and AZMEALS.COM, LLC.

The issue therefore is whether the subject domain is the property of the judgment debtor MWA and whether it can be garnished toward satisfaction of the judgment against MWA. Exhibit 3 is a purchase contract entered into by Ms. Tamid and several other parties. In it Ms. Tamid and others purchased the entity MWA from other parties including but not limited to one Jonny Narlis. Paragraph 7 of the contract Exhibit 3 clearly recites that, upon execution of the contract, the subject domain will be “returned” to MWA. Ms. Tamid testified that the contract was executed on or about June 8, 2010 and apparently performed at or about the same time. However, Ms. Tamid also testified that this particular portion of the contract was written in error and that the subject domain was transferred to her the very next day – presumably by MWA. No written confirmation of Ms. Tamid’s testimony in that regard was presented to the court by the garnishees or anyone else. Likewise there was no evidence of what consideration, if any, Ms. Tamid paid to MWA for the return of the subject domain.

The court finds that the subject domain is the property of MWA and that it is currently in the possession of the three garnishees. Because of this finding, it is not necessary for the court to reach the alternate ground for relief requested by Plaintiff, to wit, whether the transfer of the subject domain by MWA to Ms. Tamid constituted a fraudulent transfer.

Accordingly, Plaintiff’s objection to the answers filed by the 3 garnishees – and each of them – is sustained.

Plaintiff is directed to prepare a form of judgment against each garnishee consistent with this minute entry. Plaintiff also is directed to submit a claim and supporting affidavit for attorneys’ fees and costs against the garnishees and each of them under the authority of ARS 12-1580(E).